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Letter dated 24 September 2004 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its fifty-third session, which was held at Geneva from 21 to 23 September 2004.

During the opening plenary meeting of the fifty-third session representatives of Kuwait, Iraq and the Sudan addressed the Council. Their respective statements are being sent by mail with the original of this letter.

During the session the Council considered four reports and recommendations made by the Panels of Commissioners in the D, E4 (overlap) and Palestinian C categories of claims, and one special report concerning 30 claims filed pursuant to Governing Council decision 12. The reports on category D claims concern the review of individual claims for damages above US$ 100,000, the report on category E4 claims concerns adjustments, pursuant to Governing Council decision 123, to overlapping individual and E4 claims for which compensation was awarded in earlier instalments, and the report on category C claims concerns the review of late filed Palestinian category C claims, for damages up to $100,000. The special report concerns the review of 30 claims filed pursuant to Governing Council decision 12 for losses resulting from injuries sustained by the claimants as a result of the explosion of landmines and other ordnance in Kuwait. The attached tables provide details of the amounts of compensation claimed in the reports and the amounts awarded by the Governing Council, with the exception of the report concerning the third instalment of overlapping claims which contains adjustments to previous awards only. The total amount awarded in all of the reports approved in this session is $376,920,823.53.

The Governing Council considered and took note of the report of the Executive Secretary: summary of activities, covering the period from 1 May to 31 July 2004, and the information note prepared by the secretariat containing an update on the report. The report covers the processing of claims, the withdrawal of claims and the payment of approved claims. The Council raised a number of questions in relation to the report, concerning the Palestinian late claims programme, the report of the Board of Auditors, and the category A and C late claims accepted pursuant to the Canadian criteria, which were satisfactorily answered by the secretariat. The Council noted with approval the slight change in

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the number of category A and C late filed claims and decided to include audit-related issues in the agenda of the next Council session.

The Council discussed the arrangements for ensuring that payments are made into the Compensation Fund in the light of information provided by the secretariat. The Council took note of the information while requesting the secretariat to provide further information on this issue as it becomes available.

The Council reviewed several issues relating to the processing and payment of claims, including the twenty-seventh report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure, and approved corrections to certain category A, C and Palestinian late claims.

The Council also received an update on the work of the secretariat in relation to article 41 corrections in the light of an information note prepared by the secretariat. The Council took note of the information provided and referred the issues raised in the information note relating to staffing to the next meeting of the Committee on Administrative Matters.

The Council considered the issue of the deadline for the filing of article 41 requests for corrections with respect to the category A and C Canadian criteria late claims and the category C Palestinian late claims. The Council decided upon the following dates as the final dates for the receipt of such requests: (a) concerning the first, second and third instalments of Palestinian late filed category C claims, the date is set as 90 days from 23 September 2004; and (b) concerning the fourth instalment of Palestinian late filed category C claims, and the late filed category A and C Canadian criteria claims, the date is set as 90 days from the date of the applicable Governing Council decisions approving the reports for those late claims.

After considering the issue of duplication of awards, the Council recommended that the matter be kept on its agenda for further consideration at its next session.

The Council heard an update from the secretariat concerning the current status of the F4 environmental claims, and continued to consider the issue of the amendment of environmental claims in the light of an information note prepared by the secretariat. The Council thanked the secretariat, took note of the information provided, and requested the secretariat to continue to provide updates at future Council sessions.

The Council considered the issue of the availability of the environmental monitoring and assessment databank maintained by UNEP comprising information submitted by claimant Governments in the light of an information note prepared by the secretariat, dated 20 September 2004. The Council decided that: the secretariat should be requested to provide further information on the nature and content of the databank; the secretariat should consult with the claimant Governments concerning the confidentiality of the information they submitted to the databank; and the matter remains on the agenda of the Governing Council.

The Council received the seventh report of the F4 Panel of Commissioners, dated 17 September 2004, concerning the tracking progress of environmental monitoring and assessment projects compensated pursuant to Governing Council decision 132, and considered the issue of the non-use of the full amount of compensation awarded in the completion of the monitoring and assessment projects

of the Government of Jordan. The Council requested the secretariat to consult with the Government of Jordan on this issue to obtain further information for the Council's continued consideration, and decided that this issue should remain on its agenda.

The Council continued its consideration of the monitoring of the use of compensation awards in the light of a request made by the Governments of Kuwait and Saudi Arabia relating to the Panel's recommended remediation methods on the basis of which the Governing Council approved such awards; a letter from the Government of Iraq dated 16 December 2003; the presentation made by the Government of Iraq at the opening plenary meeting of the session; and the requested information received from the F4 Panel of Commissioners on this issue, including three suggested monitoring options. The Council requested the secretariat to provide further information concerning the modalities of the three options proposed by the F4 Panel of Commissioners, as well as information as to the scope of the authority of the Council to create such a mechanism, with particular reference to the period after the United Nations Compensation Commission, for the Council's further consideration, and decided that this issue should remain on the Council's agenda.

The Council also considered the request made by the Government of Iraq in the above-mentioned letter dated 16 December 2003 and at the opening plenary meeting of the session, concerning the participation of Iraq's entities in the environmental remediation projects financed by the United Nations Compensation Commission awards, and concluded that it is not within the Council's capacity to take action on this matter.

The Council heard an update from the secretariat concerning the request made by the Governments of Kuwait and Saudi Arabia concerning the filing of 12 claims of deceased persons pursuant to decision 12. The Council recalled that the secretariat will inform the Council when the D1 Panel of Commissioners has completed its eligibility determinations regarding the 12 claims, so that the Council can continue to discuss whether the special head of loss, set out in decision 218, should apply to claims found to be eligible for filing.

The Council considered two requests made by the Government of Iraq, in a note verbale and accompanying letter dated 16 August 2004, and in the presentation made by the delegation of Iraq at the opening meeting of the session, in relation to the fifth instalment of F4 environmental claims. With respect to the first request, concerning the deadlines for the submission of monitoring and assessment data relevant to the fifth instalment of F4 claims by claimant Governments and the Panel's work schedule, the Council noted that the Executive Secretary had conveyed the conclusions of the Working Group's discussions during its informal meeting held on 7 September 2004 to the F4 Panel by a letter dated 13 September 2004. The Council also noted that the F4 Panel of Commissioners had decided that it would not accept any further monitoring and assessment data from claimant Governments after the oral proceedings held on 14 and 15 September 2004, has set a deadline of 31 October 2004 for the receipt of further information from the Government of Iraq with respect to the issues raised in the fifth instalment of claims, and has extended its work schedule beyond December 2004 to accommodate this deadline and to ensure that the Government of Iraq receives sufficient time to respond to the issues raised in the fifth instalment of F4 claims.

With respect to the second request, concerning the compensability of interim environmental damages under Security Council resolutions and Governing Council decisions, and the compensability of public health impacts from Iraq's invasion and occupation of Kuwait, the Council requested the secretariat to continue to provide detailed briefings concerning the Panel's consideration of these matters and referred them to a future informal meeting of the Working Group.

The Council heard a presentation by the secretariat concerning the current status of the claims of the bedoun. The Council thanked the secretariat, took note of the information provided and requested the secretariat to continue to provide updates on this issue.

The Council received an information note and heard a presentation by the secretariat on decision 12 claims that include claims for corporate losses. The Council referred this issue to an informal meeting of the Working Group, to be held prior to the next meeting of the D1 Panel of Commissioners.

Following its consideration of the report of the Executive Secretary on the distribution of payments and transparency, and the return of undistributed funds, the Council took note of it and requested the secretariat to continue to inform the Council of the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds.

The Council considered the issues raised in three information notes prepared by the secretariat and decided the following:

(a) With respect to the exchange rates used for claims payment by Bangladesh, that the secretariat prepare a further information note on the reports it has received from the Government for discussion at a future informal meeting;

(b) With respect to the Government of Egypt, which has provided incomplete details in its payment distribution reports, and other Governments that have not complied with the requirements of decisions 18 and 48 of the Governing Council concerning payment distribution reports and the return of undistributed funds, that the secretariat be requested to first write to such Governments to convey the Governing Council's strong concerns regarding their non-compliance with the Council's decisions and to request that the requirements of the decisions are met and, secondly, to continue to prepare an updated information note on this issue for discussion at a future informal meeting;

(c) With respect to unlocated claimants, that the secretariat be requested to prepare an updated information note containing information on the number of cases and the amount of funds involved, and to write to claimant Governments with unlocated claimants, encouraging them to pursue efforts to locate claimants and informing them that the Council has commenced discussing a final date for the payment of awards to unlocated claimants.

The Council continued to consider the issues of interest on awards of compensation and claims preparation costs in the light of information provided by the secretariat. The Council referred these matters to a future informal meeting of the Working Group and decided to keep them on its agenda.

The Council considered the request made by the Government of the Sudan at the opening plenary meeting concerning a Sudanese E2 claim, in the light of

information provided by the secretariat, and requested the secretariat to provide a detailed response to the Sudan explaining the issues raised in its request.

Finally, the Governing Council decided to hold its fifty-fourth session from 7 to 9 December 2004.

To date, the Commission has awarded compensation of approximately $48.9 billion, including the awards approved at the fifty-third session, and approximately $18.6 billion of the amounts awarded have been made available to Governments and international organizations for distribution to successful claimants in all categories of claims. The payments to successful claims approved by the Council at the fifty-third session will be made in the next round of payments, in accordance with Governing Council decision 227, scheduled to take place on 21 October 2004. On 16 September 2004 the balance of the Compensation Fund was approximately $283.4 million.

(*Signed*) Michael **Steiner**
President of the Governing Council

Annex I

Summary of recommendations

A. Report and recommendations made by the D2 Panel of Commissioners concerning part three of the eighteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/10)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Egypt	6	1	6 592 289.28	475 648.14
Germany	1	-	6 768 948.78	122 932.19
India	-	1	9 942 862.00	nil
Italy	-	1	284 654.53	nil
Jordan	8	1	139 330 340.25	28 268 928.96
Kuwait	12	-	488 703 209.55	162 797 359.89
Lebanon	2	1	5 495 750.00	29 260.00
Pakistan	1	-	8 329 038.00	114 706.17
Saudi Arabia	-	1	496 790.38	nil
United Kingdom	3	-	62 199 837.60	375 360.13
Yemen	2	-	20 383 042.14	1 282 721.46
Total	**35**	**6**	**748 526 762.51**	**193 466 916.94**

B. Report and recommendations made by the D1 Panel of Commissioners concerning part three of the nineteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/11)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Jordan	-	1	14 324 856.99	nil
Kuwait	16	-	299 965 718.31	151 689 105.22
Saudi Arabia	1	-	1 393 991.61	825 137.62
United Arab Emirates	1	-	10 523 598.88	315 762.42
Total	**18**	**1**	**326 208 165.79**	**152 830 005.26**

C. Special report and recommendations made by the D1 Panel of Commissioners concerning 30 claims filed pursuant to Governing Council decision 12 (S/AC.26/2004/12)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	30	-	201 349.49[a]	551 439.45

[a] This amount relates to three claims for loss of earnings in addition to 30 claims for mental pain and anguish, in respect of which the claimants were not required to specify a particular claimed amount.

D. Report and recommendations made by the Panel of Commissioners concerning the third instalment of Palestinian late claims for damages up to $100,000 (category C claims) (S/AC.26/2004/14)

Submitting entity	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Number of duplicate claims*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Palestinian Authority	1 676	69	39	83 766 136.34	28 972 289.88

Annex II

Documents before the Governing Council at its fifty-third session

1. Report and recommendations made by the D2 Panel of Commissioners concerning part three of the eighteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/10).

2. Decision concerning part three of the eighteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.228 (2004)).

3. Report and recommendations made by the D1 Panel of Commissioners concerning part three of the nineteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2004/11).

4. Decision concerning part three of the nineteenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.229 (2004)).

5. Special report and recommendations made by the D1 Panel of Commissioners concerning 30 claims filed pursuant to Governing Council decision 12 (S/AC.26/2004/12).

6. Decision concerning 30 claims filed pursuant to Governing Council decision 12 (S/AC.26/Dec.230 (2004)).

7. Third special report and recommendations made by the merged E4 Panel of Commissioners concerning overlapping claims (S/AC.26/2004/13).

8. Decision concerning the third instalment of overlapping claims (S/AC.26/Dec.231 (2004)).

9. Report and recommendations made by the Panel of Commissioners concerning the third instalment of Palestinian late claims for damages up to $100,000 (category C claims) (S/AC.26/2004/14).

10. Decision concerning the third instalment of Palestinian late claims for damages up to $100,000 (category C claims) (S/AC.26/Dec.232 (2004)).

11. Twenty-seventh report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2004/15).

12. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.233 (2004)).